Secretary to the Council: The Title of the Bill is "The Cochin Insolvency Act Amendment Bill."

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Bill be referred to a Select Committee, consisting of the Secretary to the Government, Mr. A. L. Antony, Mr. Kochukunhan Kaimal, Mr. A. V. Moothedan and the Advocate-General.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried.

Deputy President: The Secretary to Government shall be the Chairman and the Committee is to submit its report within one month.

The Cochin Patents and Designs Act Amendment Bill *

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Cochin Patents and Designs Act Amendment Bill be read in Council.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Mr. C. A. Kunjunni Raja *(Advocate-General):* Sir, the Cochin Patents and Designs Bill was passed in this Council and received His Highness' assent in 1112. It is an adaptation of the corresponding enactment in British India. In British India several changes have been introduced subsequently and the present Bill is simply to bring into force the amendments in British India. It is an enactment of a highly technical nature and it is better that we have the same laws here also. The various details which are of a technical nature are explained in the objects and reasons. The main amendments are with a view only to stop import of pirated designs and minor improvements in the various sections of this Act.

Motion put and carried.

Secretary to the Council : The Title of the Bill is the Cochin Patents and Designs Act Amendment Bill.

Mr. C. A. Kunjunni Raja *(Advocate-General):* I request that the President may be pleased to suspend S. O. 32 so that the Bill may be taken up for consideration.

Deputy President : S. O. 32 is suspended.

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Bill be taken up for consideration.

Mr. K. P. Kannan Nayar *(Secretary to Government) :* I second it.

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Motion put and carried.

Clauses 2 to 21 put and carried.

Clause 1 put and carried.

Title and Preamble put and carried.

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Bill may be taken up tomorrow and finally passed.

Motion put and carried.

The Cochin Nayar Act Amendment Bill *

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Cochin Nayar Act Amendment Bill be read in Council.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Mr. C. A. Kunjunni Raja *(Advocate-General):* In the Nayar Act, though certain Criminal provisions have been introduced, there is nothing to show as to who should take action when an offence is committed. This Bill is to fill up that omission in the Act. The proposal is that complaints have to be made by the Tahsildar and the Deputy Tahsildar of the Taluk in which the offence has been committed.

Mr. V. J. Mathai *(Planters):* I rise to point out one defect in the Bill. Our object is to ease all the penal provisions. Of course, punishments have to be imposed on delinquents. Here the Tahsildar alone will be able to complain. Nobody else can complain. The object is to avoid the difficulty of offences not being cognisable, but the remedy proposed is greater than the disease. I am not opposing the Bill nor supporting it. I am pointing it out for the consideration of the House. It is in the power of the Advocate-General to rectify the mistake.

Mr. C. V. Iyyu *(Kunnamkulam):* I fully agree with the Hon'ble Member for Planters, Mr. Mathai. The Tahsildar is a busy officer and it is not possible for him to know where the marriages are taking place. So, the village officers should be given this power.

Mr. C. A. Kunjunni Raja *(Advocate-General):* There is no mistake at all. I think it is better that the House goes into the question at once. This is a social piece of legislation and as far as possible it is the intention of the Government to see that responsible officers alone are given power to take action. I shall read the penal sections. Under section 6, notice of a marriage shall be given by such person and to such authority and in such form and within such

* Appendix II

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APPENDIX I

THE COCHIN PATENTS AND DESIGNS ACT (AMENDMENT) BILL

Preamble.—Whereas it is expedient to amend the law relating to the protection of Inventions and Designs; It is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Patents and Designs (Amendment) Act, of 111 , and shall come into force at once.

2. *Amendment of section 2.*—Clause (6) of section 2 of the Cochin Patents and Designs Act, XI of 1112, hereinafter referred to as the Act shall be deleted.

3. *Amendment of section 5.*—In section 5 of the Cochin Patents and Designs Act, XI of 1112—

(*a*) in sub-section (1)—

(*i*) in clause (c) after the words "the title" the words "of the specification" shall be inserted;

(*ii*) in clause (*e*) after the words "not a" the words "manner of" shall be inserted;

(*iii*) for clause (*f*) the following clauses shall be substituted, namely.—

"(*f*) the specification relates to more than one invention, or

(*g*) in the case of an application claiming priority under section 84, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Cochin by virtue of which priority is claimed, or

(*h*) in the case of an application for a patent of addition under section 15, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification,";

(*b*) after sub-section (1) the following sub-section shall be inserted namely.—

"(1-A). If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification be amended by the insertion of a reference to such other specification, by way of notice to the public;"

(*c*) in sub-section (2), after the word "Amendment" the words "or the insertion of a reference" shall be inserted; and

(*d*) in sub-section (4).—

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(*i*) for the words "become void" the words "be deemed to have been refused" shall be substituted;

(*ii*) in the proviso the words "by any period not exceeding three months" shall be omitted; and for the words "or revived, as the case may be, during, but not beyond the period of extension so requested" the words "for any period so requested not exceeding in all three months from the expiration of the said period of twelve months" shall be substituted.

4. *Amendment of section 9.*—In clause (*b*) of the proviso to sub-section (3) of section 9 of the Act after the word "patent" where it occurs for the first time, the words "or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (2)" shall be inserted.

5. *Amendment of section 13.*—In section 13 of the said Act,—

(*a*) in sub-section (3), for the words "may determine" the words "may, on applications made in this behalf, determine" shall be substituted;

(*b*) in the proviso to sub-section (4).—

(*i*) the words "by any period not exceeding 3 months" shall be omitted; and

(*ii*) for the words "during, but not beyond, the period of extension applied for" the words "for any period so applied for not exceeding in all three months from the expiration of the time for payment" shall be substituted.

6. *Amendment of section 14.*—In section 14 of the Act, for sub-sections (5) and (6) the following sub-sections shall be substituted, namely.—

"(5) The Government or the High Court when a petition is referred to it shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court, as the case may be, may think fit."

7. *Amendment of section 28.*—For sub-section (1) of section 28 of the Act, the following sub-section shall be substituted, namely.—

"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely.—

(*a*) that the invention has been the subject of a valid prior grant of a patent in Cochin;

(*b*) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent;

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(c) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims;

(d) that the invention was not, at the date of the patent, a manner of new manufacture or improvement;

(e) that the invention does not involve any inventive step, having regard to what was known or used prior to the date of the patent;

(f) that the invention is of no utility;

(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;

(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;

(i) that the patent was obtained on a false suggestion or representation;

(j) that the primary or intended use or exercise of the invention is contrary to law:

(k) that the patentee has contravened, or has not complied with, the conditions contained in the patent;

(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office;

(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by, the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Cochin, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable:

Provided that this sub-section shall have effect in relation to the ground of revocation specified—

(i) in clause (b), subject to the provisions of section 84, or

(ii) in clause (d), subject to the provisions of sub-section (1) of section 12, sub-section (2) of section 21, section 40 and section 42."

8. *Amendment to section 31.*—(a) To sub-section (1) of section 31 of the Act, the following proviso shall be added, namely.—

"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit, along with the counter claim, shall be transferred to the High Court for decision."

(b) In sub-section (2) of section 31 of the Act, for the words "this Act" the word and figure "section 28" shall be substituted.

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9. *Substitution of new section for section 40.*—For section 40 of the Act the following section shall be substituted, namely.—

"40. *Public use or knowledge of invention.*—The Public use or knowledge of an invention in Cochin before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surruptitiously or in fraud of the true and first inventor or his legal representative or assign or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence:

Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

10. *Substitution of section 42.*—For section 42 of the Act the following section shall be substituted, namely.—

"42. *Provisions as to exhibitions and readings before learned societies.*—The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the Cochin Government Gazette, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application:

Provided that—

(*a*) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

11. *Amendment of section 49.*—In sub-sections (2) and (3) of section 49 of the Act, the words "within the prescribed time" shall be omitted.

12. *Substitution of section 56.*—For section 56 of the Act, the following section shall be substituted, namely.—

"56. *Provisions as to exhibitions.*—The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the Cochin Government Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor shall not prevent the design from being registered or invalidate the registration thereof:

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Provided that—

(*a*) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

13. *Amendment of section 57.*—In sub-section (1) of section 57 of the Act.—

(*a*) after clause (*a*) the following clause shall be inserted, namely.—

"(*aa*) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(*b*) in sub-clause (*b*), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

14. *Insertion of new section 63-A.*—After section 63 of the Act the following section shall be inserted, namely.—

"63-A. *Information relating to patents.*—A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly."

15. *Amendment of section 69.*— In section 69 of the Act, the word "and", in the first three places where it occurs, shall be omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

16 *Insertion of new section 74-A.*—After the heading "Evidence, etc.," and before section 75 of the Act the following section shall be inserted, namely.—

"74-A. *Evidence before the Controller.*— Subject to any rules made under section 82, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do, he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

17. *Insertion of new section 75-A.*— After section 75 of the Act, the following section shall be inserted, namely.—

"75-A. *Evidence of documents in Patent Office.*— Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Cochin, and in all proceedings, without further proof or production of the originals:

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Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence require the production of the originals or such further proof as it considers necessary."

18. *Substitution of section 76.*— For section 76 of the Act, the following section shall be substituted.—

"76. *Transmission of copies of specifications, etc., and inspection thereof.*— Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be, after the printed copies thereof are available, to such authorities as the Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the Government."

19. *Amendment of section 84.*— In sub-section (1) of section 84 of the Act for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words "shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

20. *Amendment of schedule.*— In the schedule to the Act, for the words "Before the expiration of" where they occur in the penultimate entry, the words "In respect of" shall be substituted.

21. *Amendment of section 17 of Act XII of 1109.*— In section 17 of the Cochin Sea Customs Act, XII of 1109, after clause (e) the following shall be inserted, namely.—

(ee) goods made or produced beyond the limits of Cochin and intended for sale, and having applied thereto, a design in which copyright exists under the Cochin Patents and Designs Act, XI of 1112, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the license or written consent of the registerd proprietor of the design;".

APPENDIX II

THE COCHIN NAYAR ACT (AMENDMENT) BILL

Preamble.—Whereas it is expedient to amend the Cochin Nayar Act, XXIX of 1113 for the purpose hereinafter appearing; It is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Nayar (Amendment) Act, of 111 and shall come into force at once.

2. *Amendment to section 9.*—In section 9 of the Cochin Nayar Act, XXIX of 1113, after the figure "8" add the following.—

"and except upon a complaint in writing made to such court by the Tahsildar or Deputy Tahsildar of the Taluk in which the offence under any of these sections has been committed."

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